

POTPOURRI NOTICE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Advance Notice of Proposed Rulemaking
Underground Storage Tanks Regulations, LAC 33:Part XI (UT011)
(0402Pot2)

The Department of Environmental Quality is issuing an advance notice of proposed rulemaking (ANPR) in order to obtain early comment on issues associated with the draft amendments to the Underground Storage Tanks regulations, LAC 33:Part XI (Log #UT011).

This ANPR requests public input on the draft amendments regarding:

1. determination of the fiscal and economic impact of the proposed amendments;
2. clarification of standards for release detection methods, corrosion protection, permanent closure, and temporary closure;
3. amendments to financial responsibility requirements for Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF) participants;
4. addition of new definitions; and
5. deletion of the UST Certification Board.

The goal of the agency is to develop proposed regulations that will further the protection of the environment with little or no fiscal effect to the regulated community or the public.

All interested persons are invited to submit written comments on the ANPR. Persons commenting should reference the draft regulation by UT011. Such comments must be received no later than April 16, 2004, at 4:30 p.m., and should be sent to Sharon Parker, Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to sharon.parker@la.gov. Copies of this draft regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of UT011.

UT011 is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

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Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part XI. Underground Storage Tanks

Chapter 1. Program Applicability and Definitions

§103. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless specifically defined otherwise in LAC 33:XI.1105 or 1303.

De Minimis Concentration—the concentration of a regulated substance below which no significant impact to human health or the environment would result if a release occurred, as determined by LAC 33:I.1307.

Owner—

- a. the current owner of the land under which the tank is or was buried;
- b. any legal owner of the tank;
- c. any known operator of the tank;
- d. any lessee;
- e. any lessor;
- f. if one person defined as an owner complies, it shall be deemed compliance by all persons defined as owners.

Permanent Closure—the process of removing and disposing of a UST system no longer in service, including the process of abandoning such a system in place through the use of prescribed techniques for the purging of vapors and the filling of the vessel with an inert material, the process of properly labeling a tank, and the process of collecting subsurface samples. Abandoning such systems in place shall be done in accordance with methods approved by the administrative authority.

Release—any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a UST system into groundwater, surface water, or surface or subsurface soils.

Response Action—any technical services activity or specialized services activity; including, but not limited to, assessment, planning, design, engineering, construction, operation of recovery system, or ancillary services, that which are carried out in response to any discharge or release or threatened release of motor fuels into the groundwater, surface waters, or subsurface soils.

Response Action Contractor—a person who has been approved by the department and is carrying out any response action, including excluding a person retained or hired by such person to provide specialized services relating to a response action, and who shall provide no more than 40 percent of all response actions, based on costs, relating to a particular underground storage tank site. This 40 percent does not include those costs associated with reimbursement application preparation or laboratory analyses. When emergency conditions exist as a result of a release from a motor fuel underground storage tank, this term shall also include any person performing department-approved emergency response actions during the first 72 hours following the release.

~~*Technical Services*—assessment field activities oversight; activities performed by a response action contractor including, but not limited to, oversight of all assessment field activities; all reporting, planning, and development designing, and operating of corrective action plans and designing of and remedial systems activities; performance of groundwater monitoring and discharge monitoring; performance of operation and maintenance of remedial systems; and specialized services oversight of specialized services performed by a subcontractor; and other services that require geological and engineering expertise carried out in response to a discharge or release of motor fuel from UST systems into soils, groundwater, or surface water.~~

~~*Temporary Closure*—the temporary removal from service of a UST.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 27:520 (April 2001), LR

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

A. Existing UST Systems

1. All owners of *existing UST systems* (as defined in LAC 33:XI.103) were required to register such systems by May 8, 1986, (USTs installed after that date were required to be registered within 30 days of bringing such tanks into use) on a form approved by the department. Tanks filled with a solid, inert material before January 1, 1974, are not required to be registered with the department. No ~~owner or operator~~ person shall allow a regulated substance to be placed into an existing UST system that has not been registered and does not have a current certificate of registration.

A.2 – B.2. ...

3. No ~~owner or operator~~ person shall allow a regulated substance to be placed into a new UST system that has not been registered and does not have a current certificate of registration.

C. All UST Systems. Beginning on the effective date of these regulations, any person who sells a ~~tank intended to be used as a~~ UST must notify the purchaser of that tank of the owner's registration obligations under this Section's requirements, specifically: as follows.

1. Any person who sells a UST system shall so notify the Office of Environmental Services, Permits Division in writing within 30 days after the date of the transaction;_

2. Any person who acquires a UST system shall submit to the Office of Environmental Services, Permits Division an amended registration form within 30 days after the date of acquisition;_

3. A current copy of the registration form must be kept on-site or at the nearest staffed facility.

4. The current Certificate of UST Registration shall be kept conspicuously posted in the place of business at all times, in such a manner as to be visible to the person placing or dispensing a regulated substance into the UST.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended

LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR

§303. Standards for UST Systems

A. A code of practice developed by a nationally-recognized association or an independent testing laboratory shall be used to comply with this Section. An approved list of Industry Codes and Standards for UST Systems may be obtained at the department's website or at www.epa.gov/swrust1/cmplastc/standard.htm, or by contacting the Office of Environmental Services, Permits Division or the Office of Environmental Compliance, Enforcement or Surveillance Division.

A-B. Standards for New UST Systems. In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the requirements of this Subsection. No portion of a new UST system shall be installed within 50 feet of an active or abandoned water well unless the entire system meets the requirements of LAC 33:XI.703.C.2.

1. Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion in accordance with Subsection A of this Section and a code of practice developed by a nationally-recognized association or independent testing laboratory as specified described below:

a. the tank is constructed of fiberglass-reinforced plastic; or

~~NOTE: Repealed. The following industry codes shall be used to comply with Subparagraph A.1.a of this Section: Underwriters Laboratories Standard 1316, "Standard for Glass Fiber Reinforced Plastic Underground Storage Tanks for Petroleum Products"; Underwriter's Laboratories of Canada CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products"; or American Society of Testing and Materials Standard D4021-86, "Standard Specification for Glass Fiber Reinforced Polyester Underground Petroleum Storage Tanks."~~

b. the tank is constructed of steel metal and cathodically protected in the following manner:

i. the tank is coated with a suitable dielectric material;

ii. field-installed cathodic protection systems are designed by a corrosion expert;

iii. impressed current systems are designed to allow determination of current operating status as required in LAC 33:XI.503.~~CA.3~~; and

iv. cathodic protection systems are operated and maintained in accordance with LAC 33:XI.503 or according to guidelines established by the department; or

~~NOTE: Repealed. The following codes and standards shall be used to comply with Subparagraph A.1.b of this Section: 1. Steel Tank Institute, "Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks"; 2. Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks"; 3. Underwriters Laboratories of Canada CAN4-S603-M85, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and CAN4-G03.1-M85, "Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids," and CAN4-S631-M84, "Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems"; 4. National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."~~

c. the tank is constructed of a steel metal-fiberglass-reinforced-plastic composite; or

NOTE: ~~Repealed. The following industry codes shall be used to comply with Subparagraph A.1.c of this Section: Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks," or the Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks."~~

d. the tank is constructed of metal without additional corrosion protection measures, provided that:

i. the tank is installed at a site that a corrosion expert determines will not be corrosive enough to cause the tank to have a release due to corrosion during its operating life; and

ii. owners and operators maintain records that demonstrate compliance with the requirements of Clause ~~AB.1.d.i~~ of this Section for the remaining life of the tank; or

e. the tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the constructions listed in Subparagraphs ~~AB.1.a-d~~ of this Section.

2. Piping. Piping that routinely contains regulated substances and is in contact with the ground or water must be properly designed, constructed, and protected from corrosion in accordance with ~~Subsection A of this Section and a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:~~ as described below:

a. the piping is constructed of fiberglass-reinforced plastic; or

NOTE: ~~Repealed. The following codes and standards shall be used to comply with Subparagraph A.2.a of this Section: 1. Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe"; 2. Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas"; 3. Underwriters Laboratories of Canada Guide ULC 107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids"; and iv. Underwriters Laboratories of Canada Standard CAN 4-S633-M81, "Flexible Underground Hose Connectors."~~

b. the piping is constructed of steel metal and cathodically protected in the following manner:

i. the piping is coated with a suitable dielectric material;

ii. field-installed cathodic protection systems are designed by a corrosion expert;

iii. impressed current systems are designed to allow determination of current operating status as required in LAC 33:XI.503. ~~CA.3;~~ and

iv. cathodic protection systems are operated and maintained in accordance with LAC 33:XI.503 or guidelines established by the department; or

NOTE: ~~Repealed. The following codes and standards shall be used to comply with Subparagraph A.2.b of this Section: 1. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; 2. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems"; 3. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; and 4. National Association Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems."~~

c. the piping is constructed of metal without additional corrosion protection measures, provided that:

i. the piping is installed at a site that a corrosion expert determines is not corrosive enough to cause the piping to have a release due to corrosion during its operating life; and

ii. owners and operators maintain records that demonstrate compliance with the requirements of Clause ~~AB.2.c.i~~ of this Section for the remaining life of the piping; or

NOTE: ~~Repealed. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; and National Association of Corrosion Engineers Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems," shall be used to comply with Subparagraph A.2.c of this Section.~~

d. the piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in Subparagraphs AB.2.a-c of this Section.

3. Spill and Overfill Prevention Equipment

a. Except as provided in Subparagraph AB.3.b of this Section, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use:

i. spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and
 ii. overfill prevention equipment that will:
 (a). automatically shut off flow into the tank when the tank is no more than 95 percent full;

(b). alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or

(c). restrict flow 30 minutes prior to overfilling; or alert the operator with a high-level alarm one minute before overfilling; or automatically shut off flow into the tank so that none of the fittings on top of the tank are exposed to product because of overfilling.

b. Owners and operators are not required to use the spill and overfill prevention equipment specified in Subparagraph AB.3.a of this Section if:

i. alternative equipment is used that the department determines is no less protective of human health and the environment than the equipment specified in Clause AB.3.a.i or ii of this Section; or

ii. the UST system is filled by transfers of no more than 25 gallons at one time.

4. Installation, Certification of Installation and Verification of Installer Certification, and Notification of Installation

a. Installation. All tanks and piping must be installed in accordance with Subsection A of this Section and a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

[NOTE: ~~Repealed. Tank and piping system installation practices and procedures described in the following codes shall be used to comply with the requirements of Subparagraph A.4.a of this Section: 1. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System"; 2. Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; 3. American National Standards Institute Standard B31.3, "Petroleum Refinery UST Piping," and American National Standards Institute Standard B31.4, "Liquid Petroleum Transportation Piping System."~~]

b. Certification of Installation and Verification of Installer Certification

i. From the date of promulgation of these regulations until January 20, 1992, owners and operators must certify installations as follows. All owners and operators must ensure that one or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with Subparagraph AB.4.a of this Section by providing a certification of compliance on the UST registration forms (UST-REG-01 and 02) in accordance with LAC 33:XI.301:

(a). the installer has been certified by the tank and piping manufacturers; or

(b). the installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation; or

(c). the installation has been inspected and approved by the department; or

(d). all work listed in the manufacturer's installation checklists has been completed; or

(e). the owner and operator have complied with another method for ensuring compliance with Subparagraph ~~BA~~.4.a of this Section that is determined by the department to be no less protective of human health and the environment.

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over *installation critical junctures* (as defined in LAC 33:XI.1303) of an UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph ~~AB~~.4.a of this Section, all owners and operators must provide a certification of compliance on the UST Registration of Technical Requirements Form (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Services, Permits Division.

c. Notification of Installation. The owner and operator must notify the Office of Environmental Compliance, Surveillance Division in writing at least 30 days before beginning installation of a new UST system: by:

i. completing the Installation, Renovation and Upgrade Notification Form (UST-ENF-04);

ii. notifying the appropriate regional office of the Office of Environmental Compliance, Surveillance Division by mail or fax seven days prior to commencing the installation and before commencing any *installation critical juncture* (as defined in LAC 33:XI:1303);

iii. This including in the notification must indicate a statement of the number of active or abandoned water wells within 50 feet of the UST system and the type of system to be installed; and

iv. including in the notification it must also indicate the methods to be used to comply with LAC 33:XI.Chapter 7.

~~B C.~~ Upgrading Existing UST Systems to New System Standards

1. ~~Alternatives Allowed.~~ Not later than December 22, 1998, all existing UST systems must comply with one of the following sets of requirements:

a. new UST system performance standards under ~~LAC 33:XI.303.A~~ Subsection B of this Section; or

b. the upgrading requirements in Paragraphs ~~B.2-5~~ C.3-6 of this Section; ~~or~~
~~e2.~~ After December 22, 1998, all existing UST systems not meeting the requirements of Paragraph C.1 of this Section must comply with closure requirements under LAC 33:XI.Chapter 9, including applicable requirements for corrective action under LAC 33:XI.715.

23. Tank Upgrading Requirements. Steel Metal tanks must be upgraded in accordance with Subsection A of this Section and upgraded to meet one of the following requirements, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory.

a. Internal Lining. A tank may be upgraded by internal lining if:

i. the lining is installed in accordance with the requirements of LAC 33:XI.507; and

ii. within 10 years after lining, and every five years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

b. Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of ~~LAC 33:XI.303.A.Clauses B.1.b.ii, iii, and iv of this Section,~~ and the integrity of the tank is ensured using one of the following methods.

i. The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes before the cathodic protection system is installed.

ii. The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with LAC 33:XI.701.A.4-78.

iii. The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of LAC 33:XI.701.A.3. The first tightness test must be conducted before the cathodic protection system is installed. The second

tightness test must be conducted between three and six months after the first operation of the cathodic protection system.

iv. The tank is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than the methods specified in Clauses ~~BC.23~~.b.i-iii of this Section.

v. All procedures used to upgrade existing UST systems by cathodic protection shall be conducted in accordance with applicable requirements of the Louisiana Department of Transportation and Development, or its successor agency.

c. Internal Lining Combined with Cathodic Protection. A tank may be upgraded by both internal lining and cathodic protection if:

i. the lining is installed in accordance with the requirements of LAC 33:XI.507; and

ii. the cathodic protection system meets the requirements of ~~LAC 33:XI.303.A~~ Clauses ~~B.1~~.b.ii, iii, and iv of this Section.

NOTE: ~~Repealed.~~ The following codes and standards may be used to comply with Subparagraph ~~B.2.e~~ of this Section: 1. American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks"; 2. National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection"; 3. National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and 4. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."

~~34.~~ Piping Upgrading Requirements. Metal piping that routinely contains regulated substances and is in contact with the ground or water must be cathodically protected ~~in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of LAC 33:XI.303.A~~ Clauses ~~B.2~~.b.ii, iii, and iv of this Section.

NOTE: ~~Repealed.~~ The codes and standards listed in the note following ~~LAC 33:XI.303.A.2.b~~ shall be used to comply with this requirement.

~~45.~~ Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with the requirements for spill and overfill prevention equipment for new UST systems specified in ~~LAC 33:XI.303.A~~ Paragraph ~~B.3~~ of this Section.

~~56.~~ Reporting Requirements

a. The owner and operator must notify the Office of Environmental Services, Permits Division, or the Office of Environmental Compliance, Surveillance Division, in writing at least 30 days before beginning a UST system upgrade.

b. An amended registration form (UST-REG-02) must be submitted to the Office of Environmental Services, Permits Division within 30 days after the UST system is upgraded. The owner and operator must certify compliance with ~~LAC 33:XI.303.B~~ Subsection ~~C~~ of this Section on the amended registration form (UST-REG-02). Beginning January 20, 1992, the amended registration forms (UST-REG-01 and 02) shall include the name and department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve *repair critical junctures* or *installation critical junctures* (as defined in LAC 33:XI.1303) of an UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), LR

§305. Interim Prohibitions for Deferred UST Systems

A. The following requirements apply to all UST systems deferred under LAC 33:XI.101.C.

~~B.A.~~ No person may install a UST system listed in LAC 33:XI.101.C for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction) meets the following requirements.

1. The UST system will prevent releases due to corrosion or structural failure for the operational life of the UST system.
2. The UST system is cathodically protected against corrosion, is constructed of noncorrodible material; ~~steel or of metal~~ clad with a noncorrodible material, or is designed in a manner to prevent the release or threatened release of any stored substance.
3. The UST system is constructed or lined with material that is compatible with the stored substance.

~~C.B.~~ Notwithstanding Subsection A of this Section, a UST system without corrosion protection may be installed at a site that a corrosion expert determines is not corrosive enough to cause the UST system to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this Subsection for the remaining life of the tank. A code of practice developed by a nationally-recognized association or an independent testing laboratory shall be used to comply with this Section. An approved list of Industry Codes and Standards for UST Systems may be obtained at the department's website or at www.epa.gov/swerust1/cmplastc/standard.htm, or by contacting the Office of Environmental Services, Permits Division or the Office of Environmental Compliance, Enforcement or Surveillance Division.

~~{NOTE: Repealed. The National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," shall be used as guidance for complying with Subsection B of this Section.}~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

Chapter 5. General Operating Requirements

§501. Spill and Overfill Control

A. A code of practice developed by a nationally-recognized association (i.e., National Fire Protection Association) or an independent testing laboratory shall be used to comply with this Chapter. An approved list of Industry Codes and Standards for UST Systems may be obtained at the department's website or at www.epa.gov/swerust1/cmplastc/standard.htm, or by contacting the Office of Environmental Services, Permits Division or the Office of Environmental Compliance, Enforcement or Surveillance Division.

AB. Owners and operators must ensure that releases due to spilling or overfilling do not occur. Before a transfer is made, the owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank and that the transfer operation is monitored constantly to prevent overfilling and spilling. Spill and overfill controls shall be conducted in accordance with Subsection A of this Section.

~~{NOTE: Repealed. The transfer procedures described in National Fire Protection Association Publication 385 shall be used to comply with Subsection A of this Section. Further guidance on spill and overfill prevention appears in American Petroleum Institute Publication 1621, "Recommended Practice for~~

~~Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."}]~~

~~BC.~~ The Owners and operators must report, investigate, and clean up any spills and overfills, in accordance with LAC 33:XI.713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§503. Operation and Maintenance of Corrosion Protection

A. All owners and operators of ~~steel metal~~ UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.

~~A.1.~~ All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of external portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.

~~B.2.~~ All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements.

~~1.a.~~ Frequency. All cathodic protection systems must be tested within six months after installation and at least every three years thereafter.

~~2.b.~~ Inspection Criteria. The criteria used to determine whether cathodic protection is adequate as required by this Section must be in accordance with ~~a code of practice developed by a nationally recognized association.~~ LAC 33:XI.501.A.

NOTE: ~~Repealed. National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," shall be used to comply with Paragraph B.2 of this Section.~~

~~C.3.~~ UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure that the equipment is running properly.

~~D.4.~~ For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with LAC 33:XI.509) to demonstrate compliance with the performance standards in this Section. These records must provide the following:

~~1.a.~~ the results of the last three years of inspections required in ~~Subsection C Paragraph A.3~~ of this Section; and

~~2.b.~~ the results of testing from the last two inspections required in ~~Subsection B Paragraph A.2~~ of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§505. Compatibility

A. ...

NOTE: ~~Repealed. Owners and operators storing alcohol blends shall use the following codes to comply with the requirements of this Section: 1. American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations" and 2.~~

~~American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations.~~

B. Owners and operators storing alcohol blends shall do so in accordance with LAC 33:XI.501.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§507. Repairs Allowed

A. Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements.

A-1. Except in emergencies, the owner and operator shall notify the department's Office of Environmental Compliance, Surveillance Division in advance of the necessity for conducting a repair to a UST system.

B-2. Repairs to UST systems must be properly conducted in accordance with ~~a code of practice developed by a nationally recognized association or an independent testing laboratory.~~ LAC 33:XI.501.A. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over *repair critical junctures* (as defined in LAC 33:XI.1303) is certified in accordance with LAC 33:XI.Chapter 13.

NOTE: Repealed. ~~The following codes and standards shall be used to comply with Subsection B of this Section: National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; American Petroleum Institute Publication 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines"; American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks"; and National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection."~~

C-3. Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with ~~a code of practice developed by a nationally recognized association or an independent testing laboratory.~~ LAC 33:XI.501.A.

D-4. Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings must be repaired or replaced in accordance with the manufacturer's specifications.

E-5. Repaired tanks and piping must be tightness tested in accordance with LAC 33:XI.701.A.3 and B.2 within 30 days after the date that the repair is completed, except under the following circumstances:

1-a. the repaired tank is internally inspected in accordance with LAC 33:XI.501.A ~~a code of practice developed by a nationally recognized association or an independent testing laboratory;~~ or

2-b. the repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in LAC 33:XI.701.A.4-7g; or

3-c. another test method is used that has been given prior approval by the department after it determined the method to be no less protective of human health and the environment than those listed above.

F-6. Within six months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with LAC 33:XI.503.~~B~~A.2 and ~~C~~3 to ensure that it is operating properly.

~~6.7.~~ Owners and operators of UST systems must maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR

§509. Reporting and Recordkeeping

A. Reporting. Owners and operators must submit the following information to the department:

1. registration forms (UST-REG-01 and 02) for all UST systems (LAC 33:XI.301), including certification of installation and verification of installer certification for new UST systems, in accordance with LAC 33:XI.303.~~AB~~.4.b;

2. - 5. ...

B. Recordkeeping. Owners and operators must maintain the following information:

1. a corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (LAC 33:XI.303.~~AB~~.1.d and ~~LAC 33:XI.303.AB~~.2.c);

2. documentation of operation of corrosion protection equipment (LAC 33:XI.503.~~DA~~.4);

3. documentation of UST system repairs (LAC 33:XI.507.~~GA~~.7);

4. documentation of recent compliance with release detection requirements (LAC 33:XI.705); ~~and~~

5. ~~a copy~~ies of the most current registration forms (UST-REG-01 and 02) filed with the department;

6. documentation of the type and manufacturer of the tank, piping, leak detection equipment, and spill and overfill protection equipment; and

7. documentation of permanent closure, where applicable.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§701. Methods of Release Detection

A. - A.1.f. ...

g. Practices described in the American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of Paragraph A.1 of this Section.

NOTE: ~~Repealed Practices described in the American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of Paragraph A.1 of this Section.~~

2. - 5.c.ii. ...

iii. The slotted portion of the RDD must be designed to prevent migration of ~~natural~~ soils or the filter pack into the RDD and to allow entry of the regulated substance on the water table into the RDD under both high and low groundwater conditions.

5.c.iv. - 6. ...

a. For double-walled UST systems, the sampling or testing method must be capable of detecting a release through the inner wall in any portion of the tank that routinely contains product. The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" may be used as guidance for aspects of the design and construction of underground steel double-walled tanks.

NOTE: ~~Repealed. The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" shall be used as guidance for aspects of the design and construction of underground steel double-walled tanks.~~

b. - c. ...

7. Statistical Inventory Reconciliation (SIR)

a. The SIR method used must analyze inventory control records in a manner that can detect a release of 0.2 gallons per hour from any portion of the UST system that routinely contains product with a probability of detection of at least 0.95 and a probability of false alarm of no greater than 0.05.

b. The UST system owner or operator must receive a monthly report from the SIR provider/vendor that actually performs the SIR analysis within 15 days following the last day of the calendar month for which the analysis was performed. The SIR analysis report must include, at a minimum:

i. the name of the SIR provider/vendor and the name and version of the SIR method used for analysis;

ii. the name of the company and individual who performed the analysis;

iii. the name and address of the facility at which the analysis was performed and a description of the UST system for which the analysis was performed;

iv. a quantitative statement, in gallons per hour, for each UST system monitored for the month analyzed, of the leak threshold, the minimum detectable leak rate, and the indicated leak rate; and

v. a quantitative statement of "pass," "fail," or "inconclusive" for each UST system monitored.

7.8. Other Methods. Any other type of release detection method, or combination of methods, can be used if it meets the following requirements of Subparagraph A.7.a or b of this Section.

a. The release detection method can detect a 0.2-gallon-per-hour leak rate or a release of 150 gallons within a month with a probability of detection of at least 0.95 and a probability of false alarm of no greater than 0.05.

b. The release-detection method has been approved by the ~~department~~ Office of Environmental Compliance, Surveillance Division on the basis of a demonstration by the owner and operator that the method can detect a release as effectively as any of the methods allowed in Paragraphs A.3-78 of this Section. In comparing methods, the ~~department~~ Office of Environmental Compliance, Surveillance Division shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed on its use by the ~~department~~ Office of Environmental Compliance, Surveillance Division ~~on its use~~.

B. ...

1. Automatic Line Leak Detectors. Methods that alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or by triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at 10-pounds-per-square-inch line pressure within one hour. ~~An annual~~ A test of the operation of the leak detector ~~must~~ shall be conducted every 12 months in accordance with the manufacturer's requirements and also by simulating a release in order to determine if the system is fully operational.

2. ...

3. Applicable Tank Methods. Any of the methods in ~~LAC 33:XI.701.Paragraphs A.5-78~~ of this Section may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§703. Requirements for Use of Release Detection Methods

A. - B. ...

1. Tanks. Tanks must be monitored at least every 30 days for releases using one of the methods listed in LAC 33:XI.701.A.4-78, except for the following.

a. UST systems that meet the performance standards in LAC 33:XI.303.AB or BC, and the monthly inventory control requirements in LAC 33:XI.701.A.1 or 2, may use tank tightness testing (conducted in accordance with LAC 33:XI.701.A.3) at least every five years until December 22, 1998, or until 10 years after the tank is installed or upgraded under LAC 33:XI.303.B.2C.3, whichever is later.

b. UST systems that do not meet the performance standards in LAC 33:XI.303.AB or BC may use monthly inventory controls (conducted in accordance with LAC 33:XI.701.A.1 or 2), and ~~annual~~ tank tightness testing every 12 months (conducted in accordance with LAC 33:XI.701.A.3) until December 22, 1998, when the tank must be upgraded under LAC 33:XI.303.BC or permanently closed under LAC 33:XI.905.

1.c. - 2.a.i. ...

ii. have ~~an annual~~ a line tightness test conducted every 12 months in accordance with LAC 33:XI.701.B.2, or have monthly monitoring conducted in accordance with LAC 33:XI.701.B.3.

2.b. - 2.b.iv. ...

v. a method is used that allows compliance with Clauses B.2.b.ii-iv of this Section to be readily determined and verified.

C. - C.2. ...

a. Secondary containment systems must be designed, constructed, and installed in accordance with LAC 33:V.4437 to:

i. - iii. ...

NOTE: ~~Repealed. The provisions of LAC 33:V.4437, "Containment and Detection of Releases," shall be used to comply with these requirements.~~

b. - e.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR

§705. Release Detection Recordkeeping

A. All UST system owners and operators must maintain records in accordance with LAC 33:XI.509 demonstrating compliance with all applicable requirements of LAC 33:XI.701-703. These records must include the following:

~~A.1.~~ All written performance claims pertaining to any release detection system used and documentation of the manner in which these claims have been justified or tested by the equipment manufacturer, ~~or installer, or third party independent testing laboratory~~ must be maintained throughout the operational life of the release detection system.

~~B.2.~~ The results of any sampling, testing, or monitoring must be maintained for at least ~~one~~ three years, except that the results of tank tightness testing conducted in accordance with LAC 33:XI.701.A.3 must be retained until the next test is conducted.

~~C.3.~~ Written documentation of all calibration, maintenance, and repair of release detection equipment used permanently located on-site must be maintained for at least ~~one~~ three years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the manufacturer of the release detection equipment must be retained for five years from the date of installation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§707. Reporting of Suspected Releases

~~A.~~ All ~~persons owners, operators, employees, agents, contractors, or assigns~~ having knowledge of any of the conditions listed below shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 by telephone at (225) 763-3908, during office hours; (225) 342-1234, after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance within 24 hours after becoming aware of the occurrence or, if they have knowledge of an emergency condition, shall report it immediately in accordance with LAC 33:I.Chapter 39. After discovery of any of the following conditions, owners and operators of UST systems shall follow the procedures specified in LAC 33:XI.711.:

~~A.1.~~ ~~r~~Released regulated substances are discovered at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, or nearby surface water).;

~~B.2.~~ ~~U~~nusual operating conditions are observed (such as the erratic behavior of product-dispensing equipment, the sudden loss of product from the UST system, or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced.;

~~C.3.~~ ~~M~~onitoring results from a release detection method required under LAC 33:XI.703.B and C indicate that a release may have occurred, unless:

~~1.a.~~ the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring conducted within 24 hours does not confirm the initial result; or

~~2.b.~~ in the case of inventory control, ~~subsequently collected~~ a second month of data ~~do~~ does not continue to indicate a loss.;

~~4.~~ monitoring results from the SIR method allowed under LAC 33:XI.701.A.7 indicate:

a. a UST system analysis report result of “fail”; or

b. a UST system analysis result of “inconclusive” that has not been investigated and quantified as a “pass” in the form of a replacement UST system analysis report meeting the requirements of LAC 33:XI.701.A.7.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR

Chapter 9. Out-of-Service UST Systems and Closure

§901. Applicability to Previously Closed UST Systems

A. The owner and operator of a UST system permanently closed before ~~the effective date of these regulations~~ July 20, 1990, must assess the excavation zone and close the UST system in accordance with this Chapter if directed to do so by the department. The department shall direct that such closure be undertaken if releases from the UST may, in the judgment of the department, pose a current or potential threat to human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§903. Temporary Closure

A. - B. ...

1. leave vent lines open and functioning; ~~and~~
2. cap and secure all other lines, pumps, manways, and ancillary equipment; ~~and~~
3. submit a completed copy of the registration form UST-REG-01 to the Office of

Environmental Services, Permits Division.

C. When a UST system is temporarily closed for more than ~~12~~ six months, owners and operators must permanently close the UST system if it does not meet either the performance standards in LAC 33:XI.303.AB for new UST systems or the upgrading requirements in LAC 33:XI.303.B.2-5C.3-6, except that the spill and overfill equipment requirements do not have to be met.

~~D. Owners and operators must permanently close the substandard~~ When a UST systems is temporarily closed for more than 24 months at the end of this 12-month period owners and operators must permanently close the UST system in accordance with LAC 33:XI.901 and 905-907, unless the department approves an extension of the ~~12~~24-month temporary closure period. Owners and operators must complete a site assessment in accordance with LAC 33:XI.907 and submit documentation of recent compliance with temporary closure requirements in Subsection A of this Section before they can apply for such an extension.

~~D.E.~~ A tank tightness test in accordance with LAC 33:XI.701.A.3 must be conducted within five days after a UST system ~~which~~ that has been temporarily closed for three months or more is brought back into service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§905. Permanent Closure and Changes-in-Service

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B, ~~and C,~~ and D of this Section, owners and operators must notify the Office of Environmental Compliance, Surveillance Division of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action.

1. Notification shall be made by:

a. completing the notification form UST-SURV-01; and
 b. notifying the appropriate regional office of the Office of Environmental Compliance, Surveillance Division by mail or fax seven days prior to implementing the removal or change.

2. Beginning January 20, 1992, all owners and operators must ensure that an individual exercising supervisory control over closure critical junctures (as defined in LAC 33:XI.1303) is certified in accordance with LAC 33:XI.Chapter 13. The assessment of the excavation zone required under LAC 33:XI.907 must be performed after the department is notified but before the permanent closure or change-in-service is completed.

B. To permanently close a ~~tank~~ UST, owners and operators must empty and clean ~~the tank and all associated piping~~ by removing all liquids and accumulated sludges. All tanks taken out of service permanently must also be either removed from the ground or filled with an inert solid material.

C. Continued use of a UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with LAC 33:XI.907.

D. The following cleaning and closure procedures shall be used to comply with this Section:

1. American Petroleum Institute Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks";
2. American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks";
3. American Petroleum Institute Recommended Practice 1631, "Interior Lining of Underground Storage Tanks" (may be used as guidance for compliance with this Section); and
4. The National Institute for Occupational Safety and Health, "Criteria for a Recommended Standard ... Working in Confined Space" (may be used as guidance for conducting safe closure procedures at some hazardous substance tanks).

NOTE: ~~Repealed. The following cleaning and closure procedures shall be used to comply with this Section: 1. American Petroleum Institute Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks"; 2. American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks"; 3. American Petroleum Institute Recommended Practice 1631, "Interior Lining of Underground Storage Tanks" (may be used as guidance for compliance with this Section); and 4. The National Institute for Occupational Safety and Health, "Criteria for a Recommended Standard ... Working in Confined Space" (may be used as guidance for conducting safe closure procedures at some hazardous substance tanks).~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), LR

§907. Assessing the Site at Closure or Change-in-Service

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site, utilizing the procedure approved by the department. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Results of this assessment must be submitted in duplicate to the Office of Environmental Compliance, Surveillance Division within 60 days following permanent closure or change in service. The assessment results shall include a site diagram indicating locations where samples were collected and a written statement specifying which USTs have been closed. ~~The requirements of this Section~~

are satisfied if one of the external release detection methods allowed in LAC 33:XI.701.A.5 is operating in accordance with the requirements in LAC 33:XI.701.A at the time of closure and indicates that no release has occurred.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), LR

Chapter 11. Financial Responsibility

§1121. Use of the Motor Fuel Underground Storage Tank Trust Fund

A. The administrative authority was authorized by R.S. 30:2194-2195.10 to receive and administer the Motor Fuel Underground Storage Tank Trust Fund (MFUSTTF) to provide financial responsibility for owners or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner or operator who is eligible for participation in the MFUSTTF may use this mechanism to partially fulfill the financial responsibility requirements for eligible USTs. To use the MFUSTTF as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner or operator must be an "eligible participant," as defined in Subsection AB of this Section. In addition, the owner or operator must use one of the other mechanisms described in LAC 33:XI.1111-1119 or 1123-1125 to demonstrate financial responsibility for the amounts of the deductibles specified in Subsection C of this Section, which are the responsibility of the participant and not covered by the MFUSTTF.

BA. Definitions. The following terms shall have the meanings ascribed to them as used in this Section.

Advisory Board—the Underground Motor Fuels Storage Tank Advisory Board (established under R.S. 2195.8), whose six members consist of the following:

- a. the secretary of the Department of Environmental Quality or his designee;
- b. two members appointed by the president of the Louisiana Oil Marketers

Association;

c. one member appointed by the Mid-Continent Oil and Gas Association ~~Bayou State Gasoline Retail Dealers Association~~; and

d. two members appointed by the secretary who represent the response action contractor community ~~the secretary of the Department of Public Safety and Corrections or his or her designated representative.~~

Cost-Effective Procedures—the basis used to determine the method of payment to a response action contractor for performing assessment or remediation work at an MFUSTTF-eligible site. For assessment work, the method of payment is based on time and materials rates and unit activity rates as established in the Louisiana Motor Fuels Underground Storage Tank Trust Fund Cost Control Guidance Document. For remediation work, the method of payment for an approved corrective action plan is based on time and materials rates and unit activity rates as established in the Louisiana Motor Fuels Underground Storage Tank Trust Fund Cost Control Guidance Document, or a payment structure established in a pay-for-performance agreement. The method of payment for remediation work is at the discretion of the administrative authority, on a case-by-case basis.

Date of Release—the specific date on which evidence indicates that a release (leak) is occurring or has occurred. If a tank is taken out of service, the date of release is the last date of operation.

Eligible Participant—for releases occurring prior to August 1, 2001, any owner of an underground storage tank who has registered said newly-installed or operating tank with the department prior to the date of a release, has paid the annual tank registration fees along with any late payment fees, and

has met the financial responsibility requirements imposed by Subsection BC of this Section. For releases occurring on or after August 1, 2001, in addition to these requirements, the owner must also be in substantial compliance as defined in this Subsection.

Motor Fuel Underground Storage Tank—a UST used only to contain an accumulation of motor fuels.

Operating Tank—a tank that is actively receiving and dispensing motor fuels, including a tank that actively receives used motor oil.

Pay-For-Performance Agreement—a method to reimburse response action contractors performing remediation work based on set payments for reaching specific contamination reduction goals at an MFUSTTF-eligible site.

Substantial Compliance—~~when an~~ the owner or operator of a UST system ~~shall be considered to be in substantial compliance when he or she~~ has registered that tank with the department in accordance with LAC 33:XI.301, has generally complied with the state and federal laws and regulations applicable to USTs ~~and the rules and regulations adopted pursuant thereto~~ and any noncompliance with such laws and regulations has not caused or contributed to a release, has met the financial responsibility requirements specified in Subsection BC of this Section, and has promptly notified the administrative authority of any third-party claim or suit made against him or her.

Third-Party Claim—any civil action brought or asserted by any person against the secretary of the department and any owner of any underground storage tank for damages to person or property when damages are the direct result of the contamination of groundwater and/or subsurface soils by motor fuels released during operation of storage tanks that were being operated in substantial compliance as provided for in this Section. The term *damages to person* shall be limited to damages arising directly out of the ingestion or inhalation of petroleum constituents from water well contamination or inhalation of petroleum constituents seeping into homes or buildings, and the term *damages to property* shall be limited to the unreimbursed costs of a response action and the amount by which property is proven to be permanently devalued as a result of the release.

CB. Financial Responsibility Requirements for MFUSTTF Participants

1. Unless revised by the administrative authority in accordance with R.S. 30:2195.9(A)(~~35~~), MFUSTTF participants taking response actions must pay the following amounts before any disbursements are made from the fund:

a. \$15,000 per occurrence for cleanup, and \$10,000 per occurrence for cleanups and \$10,000 per occurrence for third-party judgments for the period following July 15, 1988 through the year 1989;

b. \$15,000 per occurrence for cleanups and \$15,000 per occurrence for third-party judgments- for the period from January 1, 1990 through July 14, 1992;

c. for the period from July 15, 1992 through June 15, 1995:

i. \$5,000 per occurrence for cleanups and \$5,000 for third-party judgments for owners with 1 to 12 tanks in Louisiana;

ii. \$10,000 per occurrence for cleanups and \$10,000 for third-party judgments for owners with 13 to 99 tanks in Louisiana; and

iii. \$15,000 per occurrence for cleanups and \$15,000 for third-party judgments for owners with 100 or more tanks in Louisiana;

d. \$5,000 per occurrence for cleanups and \$5,000 per occurrence for third-party judgments beginning on June 16, 1995 and continuing through February 19, 2004.

2. Thereafter, the advisory board shall review these amounts annually and may recommend adjustments to the administrative authority.

3. The administrative authority shall determine and set these amounts annually (as provided in R.S. 30:2195.9(A)(~~3~~)(5)).

4. Eligible participants must demonstrate financial responsibility for the established amounts by the allowable mechanisms described in LAC 33:XI.1111-1119 and ~~LAC 33:XI.1123-1125.~~

DC. Conditions for Use of the MFUSTTF. Funds in the MFUSTTF shall be used under the following conditions.

1. Whenever the administrative authority determines that an incidence of groundwater or subsurface soils contamination resulting from the storage of motor fuels may pose a threat to the environment or to public health, safety, or welfare, and the owner or operator of the UST system has been found to be an *eligible participant* (as defined in ~~LAC 33:XI.1121.A~~ Subsection B of this Section), the department shall obligate monies available in the MFUSTTF to provide for the following response actions.

a. Monies shall be obligated for investigation and assessment of sites shown to be contaminated by a release into the groundwater or subsurface soils from an underground motor fuel storage tank.

b. Monies shall be obligated for interim replacement and permanent restoration of potable water supply where it has been demonstrated that the supply was contaminated by a leak from an underground motor fuel storage tank.

c. Monies shall be obligated to remediate sites contaminated by a leak from an underground motor fuel storage tank to the extent necessary to return the site to the use and occupancy in effect at the time the release occurred. ~~Monies shall be obligated for r~~Rehabilitation and remediation of sites contaminated by a leak into the groundwater or subsurface soils from an underground motor fuel storage tank, which may consist of cleanup of affected soil, groundwater, and inland surface waters, using cost-effective methods that are technologically feasible and reliable, while ensuring adequate protection of the public health, safety, and welfare, and minimizing environmental damage, in accordance with the site selection and cleanup criteria established by the department.

i. Nothing herein shall be construed to authorize or require the department to obligate funds for payment of costs that may be associated with, but are not integral to, site rehabilitation, such as the cost of retrofitting or unapproved purchases of equipment needed in assisting cleanup operations.

~~ii. Subject to the provisions of Subsection C.2 and 3 of this Section, the funds in the MFUSTTF shall be used to replace leaking USTs and attendant product piping if the tanks are of double-wall construction of continuous glass filament winding, are manufactured in Louisiana by a corporation whose domicile and corporate headquarters are in Louisiana, and comply with all applicable state and federal standards. Said funds shall be allocated on a match basis of 25 percent of the replacement cost of the leaking tanks and piping.~~

~~ii.iii.~~ The monies expended from the MFUSTTF for any of the above approved costs shall be spent only up to such sum as ~~that which~~ is necessary to satisfy petroleum UST financial responsibility requirements specified in LAC 33:XI.1107.

2. Whenever the department has incurred costs for taking response actions with respect to the release of motor fuels from a UST system, or the department has expended funds from the MFUSTTF for response costs or third-party liability claims, the owner or operator of the underground motor fuel storage tank shall be liable to the department for such costs only if the owner or operator was not an eligible participant or not in substantial compliance on the date of discharge of the motor fuels that necessitated the cleanup. Otherwise, liability is limited to the provisions contained in ~~LAC 33:XI.1121.B~~ Subsection C of this Section. The expenditure of funds to reimburse any party for costs otherwise authorized by this Section shall be expressly prohibited if the costs were incurred as a result of a release of motor fuels, excluding new or used motor oil, that occurred prior to July 15, 1988. For releases of new or used motor oil, the expenditure of funds to reimburse any party for costs otherwise authorized by this Section shall be expressly prohibited for any costs relating to a release that occurred prior to September 6, 1991. Nothing contained herein shall be construed as authorizing the expenditure from the MFUSTTF on behalf of any owner or operator of a UST system who is not an eligible participant ~~on the last anniversary date of the MFUSTTF~~ and whose tanks are not in substantial compliance at the time of the release for any third-party liability.

3. If the administrative authority has expended funds on behalf of an owner or operator who was not in substantial compliance, and the MFUSTTF is entitled to reimbursement of those funds so expended, the administrative authority shall have the authority to, and is obligated to, use any and all

administrative and judicial remedies that might be necessary for recovery of the expended funds plus legal interest from the date of payment by the administrative authority and all costs associated with the recovery of the funds.

4. The MFUSTTF may be used for reimbursement of any costs associated with the review of applications for reimbursement from the MFUSTTF, legal fees associated with the collection of costs from parties not in substantial compliance, audits of the MFUSTTF, and accounting and reporting regarding the uses of the MFUSTTF.

5. The MFUSTTF may be used to make payments to a third party who brings a third-party claim against the administrative authority and any owner or operator of an underground motor fuel storage tank because of damages caused by a release into the groundwater, surface waters, or subsurface soils and who obtains a final judgment in said action enforceable in Louisiana against the owner or operator and the administrative authority if and only if it has been satisfactorily demonstrated that the owner or operator was an *eligible participant* and the tanks were in substantial compliance as defined in ~~LAC 33:XI.1121.A~~ Subsection B of this Section when the release occurred. The indemnification limit of the MFUSTTF with respect to satisfaction of third-party claims shall be that which is necessary to satisfy the requirements of ~~this Chapter. LAC 33:XI. Chapter 11.~~

ED. Procedures for Disbursements from the MFUSTTF

1. Monies held in the MFUSTTF are disbursed by the administrative authority in the following manner.

a. Payments are made in reasonable amounts to eligible participants ~~or~~ for reimbursement of payments to approved response action contractors for response actions when authorized by the administrative authority only after the owner or operator of the underground motor fuel storage tank or those acting for the owner or operator have paid the amount required by ~~LAC 33:XI.1121.Subsection C~~ of this Section. Any work contracted for on or after August 1, 1995, shall be paid by the department to the response action contractor who performed the department-approved assessment or remediation work upon presentation of proper invoices for the work.

b. Cost-effective procedures, as established by the administrative authority, shall be implemented by eligible participants using MFUSTTF monies.

2. Payments are made to third parties who bring suit against the administrative authority in his or her official capacity as representative of the MFUSTTF and the owner or operator of an underground motor fuel storage tank who is an *eligible participant* as defined in ~~LAC 33:XI.1121.A~~ Subsection B of this Section and when such third party ~~obtains~~ has obtained a final judgment in that action enforceable in Louisiana. The owner or operator stated above shall pay the amount required by ~~LAC 33:XI.1121.B~~ Subsection C of this Section toward the satisfaction of said judgment, and after that payment has been made, the MFUSTTF will pay the remainder of said judgment. The attorney general of the state of Louisiana is responsible for appearing in said suit for and on behalf of the administrative authority as representative of the MFUSTTF. The administrative authority as representative of the MFUSTTF is a necessary party in any suit brought by any third party that would allow that third party to collect from the MFUSTTF, and the administrative authority must be made a party to the initial proceedings. Payment shall be made to the third-party claim if and only if the judgment is against the administrative authority and an owner or operator who was an eligible participant on the date that the incident that gave rise to the claim occurred. The costs to the attorney general of defending these suits, or to those assistants that the administrative authority employs or the attorney general appoints to assist, shall be recovered from the MFUSTTF. If the MFUSTTF is insufficient to make payments when the claims are filed, such claims shall be paid in the order of filing when monies are paid into the MFUSTTF. Neither the amount of money in the MFUSTTF, the method of collecting it, nor any of the particulars involved in setting up the MFUSTTF shall be admissible as evidence in any trial in which suit is brought when the judgment rendered could affect the MFUSTTF. If the attorney general declines to appear in a suit for and on behalf of the secretary as representative of the MFUSTTF, or does not respond to the administrative authority's request for representation within 60 days of such request and agree to appear on behalf of the administrative authority,

an attorney from the department may, with the concurrence of the attorney general, appear in said suit for and on behalf of the administrative authority as representative of the trust.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), LR 27:521 (April 2001), LR

§1133. Recordkeeping

A. - B.4. ...

5. An owner or operator covered by the Underground Motor Fuel Storage Tank Trust Fund must maintain on file documentation that he or she has met the financial responsibility requirements of LAC 33:XI.1121.BC.

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

§1303. Definitions

A. The terms defined in this Section shall have the following meanings in this Chapter.

Individual Certification—certification in either installation/repair or closure of a UST system.

Renewal Fee—biannual fee for installation/repair and/or closure certification.

UST Certification Board—~~repealed. a board of seven members, to be appointed in the manner prescribed in LAC 33:XI.1313, for the purpose of providing expert counsel to personnel of the department with respect to determining applicant eligibility, and the examination, certification, and certification renewal of persons engaged in UST system installation, repair and/or closure. The board's activities are, however, advisory only, and final authority for administration of the certification program rests with the department.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§1307. Certification Examinations

A. ...

B. Source of Examination Questions. Questions used in the examination shall be derived from standards, instructions, and recommended practices as listed on the department's website under permits/ustworkcertstudyguide published by such authorities as the Petroleum Equipment Institute, American Petroleum Institute, Steel Tank Institute, National Association of Corrosion Engineers, Fiberglass Tank and Pipe Manufacturers Institute, National Fire Protection Association, Western Fire Chiefs Association, and Underwriters Laboratories. Additional questions may be derived from regulations adopted by the department and from state and federal laws pertaining to UST system installation, repair, or closure.

C. Administration of Examinations

1. Examinations ~~may~~ shall be conducted by ~~the following:~~a. ~~personnel of the department~~ or persons designated by the department.;b. ~~personnel of approved colleges or universities within the state, selected and designated by the department; or~~c. ~~personnel of private testing organizations, selected by the department and compensated on a contract basis.~~

2. Beginning after July 20, 1991, the department or persons designated by the department shall conduct written examinations at such times and locations within the state as the department may designate in order to identify persons as being qualified to receive UST certification.

C.3. - E. ...

F. Revision, Security, and Administration of Certification Examinations. ~~Acting on counsel of the UST Certification Board (LAC 33:XI.1313),~~ The department shall update examinations, preserve the security of examinations, and administer examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§1311. Denial of Issuance or Renewal of a Certificate or Revocation of a Certificate

A. Should an applicant be denied issuance or renewal of a UST certificate or should a person's certificate be revoked, the reason or reasons for such denial or revocation shall be set forth in writing to the person by the administrative authority.

AB. Possible ~~R~~reasons for ~~D~~denial of ~~I~~issuance or ~~R~~renewal of a ~~C~~ertificate or for Rrevocation of a ~~C~~ertificate include the following:

1. failure to achieve a passing grade on the written examination described in LAC 33:XI.1307;

2. failure to submit required documentation;

3. previous revocation of a certificate held by the applicant;

4. evidence of fraud or deceit with respect to ~~the certificate application~~ documentation required by and submitted to the department;

5. failure to present the identification card upon request of a department representative at a UST system installation, repair, or closure;

6. willful violation of the laws and regulations of Louisiana regarding UST system installation, repair, or closure; or

7. any other cause that, in the opinion of the administrative authority, constitutes adequate grounds for denial or revocation of a certificate.

BC. Appeal of Denial or Revocation. A person who has been denied issuance or renewal of a certificate or who has had a certificate revoked may appeal the action in accordance with R.S. 30:2024(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

§1313. UST Certification Board

Repealed.

~~A. — Composition. The administrative authority shall appoint seven members of a body to be known as the UST Certification Board. Members of the board shall be as follows:~~

- ~~1. — the administrative authority or his or her designee;~~
- ~~2. — a representative of the Louisiana Oil Marketers' Association;~~
- ~~3. — a representative of the Bayou State Gasoline Retailers Association;~~
- ~~4. — a representative of the state fire marshal's office;~~
- ~~5. — a representative of the Mid-Continent Oil and Gas Association; and~~
- ~~6. — two representatives from within the UST contractor community.~~

~~B. — Function. Members of the UST Certification Board shall offer technical expertise, suggestions, and other counsel to the administrative authority to assist in the planning, updating, and administration of the UST certification program. The board's activities shall, however, be advisory only, and final authority for administration of the certification program shall rest with the department.~~

~~C. — Tenure and Public Identification. The normal term of office for a member of the board shall be two years. The administrative authority may, however, at the time of the initial appointment of board members, designate terms of lesser duration for some members as a means of achieving staggered tenure and preserving continuity. No board member may be appointed to more than two successive two-year terms. The identity, affiliation, and tenure of each board member shall be a matter of public record.~~

~~D. — Meetings and Compensation. The board shall meet at least once per annum during the first quarter of the calendar year and more frequently if requested by the administrative authority. Members of the board not otherwise employed by the state shall serve without compensation.~~

~~E. — Chairman. At the first meeting of the board held each year, members of the board shall elect a chairman from among their own number. The chairman shall serve for one year, shall preside at meetings of the board, and shall be eligible for reelection.~~

~~F. — Vice Chairman and Secretary. The person elected as chairman shall appoint another member of the board to serve as vice chairman. The vice chairman shall preside at meetings of the board in the absence of the chairman. The administrative authority shall designate a member of his or her staff to serve as secretary to the board. The secretary shall prepare meeting agendas and notices, prepare minutes of board meetings, and otherwise maintain records related to the proceedings and activities of the board.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR